

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CITIZENS UNION OF THE CITY OF NEW
YORK, et al.,

Plaintiffs,

v.

THE ATTORNEY GENERAL OF THE
STATE OF NEW YORK, et al.,

Defendant.

16 Civ. 9592 (RMB)

STIPULATION AND ~~PROPOSED~~
ORDER REGARDING SUMMARY
JUDGMENT MOTIONS

RMB

Plaintiffs Citizens Union of the City of New York and Citizens Union Foundation, Inc. of the City of New York (collectively, the “Citizens Union Plaintiffs”); American Civil Liberties Union Foundation, Inc., New York Civil Liberties Union Foundation, and New York Civil Liberties Union (collectively, the “ACLU Plaintiffs”); and Lawyers Alliance for New York and Nonprofit Coordinating Committee of New York (collectively, the “Lawyers Alliance Plaintiffs”) (each a “Plaintiff Group”), and Defendant Attorney General of the State of New York (“Attorney General”) stipulate through their undersigned attorneys as follows:

WHEREAS, each Plaintiff Group sought, in its respective complaint, a permanent injunction prohibiting the enforcement of New York Executive Law sections 172-e and/or 172-f;

WHEREAS, the Attorney General and each Plaintiff Group entered into stipulations staying enforcement of the challenged statutory provisions pending disposition of any motion for a preliminary injunction, which stipulations the Court so-ordered (Case No. 16-cv-9592, Dkt. 16; Case No. 16-cv-9854, Dkt. 31, Case No. 17-cv-1655, Dkt. 16);

WHEREAS, the filing of such motions was put off in order to allow the Citizens Union Plaintiffs to seek limited discovery, and for related motion practice;

WHEREAS, these actions were further held in abeyance pending the decision of the Second Circuit Court of Appeals in *Citizens United v. Schneiderman*, No. 16-3310-cv (2d Cir. Feb. 15, 2018), which was issued on February 15, 2018;

WHEREAS, the Attorney General has agreed to treat the anticipated filing of motions for summary judgment in such a manner as to extend the stay of enforcement pending disposition of any summary judgment motions, maintaining the status quo and eliminating the need for separate motions for preliminary injunctions; and

WHEREAS, the parties have met and conferred and believe that the issues presented in these cases are potentially amenable to resolution on summary judgment, and seek to avoid unnecessary motion practice while preserving their rights and arguments;

IT IS HEREBY STIPULATED AND AGREED as follows:

1. The parties will file and brief motions for summary judgment as follows:
 - a. No later than May ~~24~~²⁵ 2018, ~~each~~^{JOINT} Plaintiff Group will file a motion for summary judgment, with ~~each~~^T brief not to exceed 30 pages. RMB
 - b. No later than June ~~25~~⁵ 2018, the Attorney General will file a ~~consolidated~~^T brief in opposition to Plaintiffs' summary judgment motions and in support of any cross-motions for summary judgment, with the ~~consolidated~~^T brief not to exceed 30 pages. RMB
 - c. No later than July 12, 2018, ~~each~~^{JOINT} Plaintiff Group will file a reply in support of its summary judgment motion and opposition to the Attorney General's cross- RMB

motion (if any), with ^{such} ~~each~~ brief not to exceed ¹⁵ ~~35~~ pages if there is no cross ~~motion, and not to exceed 35 pages if there is a cross-motion.~~ RMB

- d. No later than August 2, 2018, the Attorney General will file a reply in support of its cross-motion for summary judgment (should it make such a motion), with the brief not to exceed ¹⁵ ~~40~~ pages.

2. ~~To the extent practicable,~~ ^J Plaintiffs will file a joint Statement of Material Undisputed Facts pursuant to Local Rule 56.1. RMB

3. The Parties agree that in light of the procedural history of this case, a pre-motion conference and related letter briefing would not further narrow the issues to be briefed, and request that the Court waive this requirement. *See* Ind. Practices 2(A).

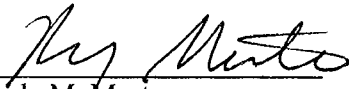
4. The Parties request ^{brief} ~~oral~~ argument on the summary judgment motions contemplated by this Stipulation. RMB

5. The Attorney General agrees that the stipulations entered into with each Plaintiff Group (Case No. 16-cv-9592 Dkt. 16, Case No. 16-cv-9854 Dkt. 31, Case No. 17-cv-1655 Dkt. 16) in which, *inter alia*, the Attorney General agreed not to take any action to enforce, or direct the enforcement of, New York Executive Law sections 172-e and 172-f in any respect pending the resolution of any motions for a preliminary injunction, shall remain in effect pending the Court's resolution of the summary judgment motions contemplated by this Stipulation.

6. This stipulation may be executed in counterparts and facsimile or electronic signatures shall be deemed originals for purposes of this stipulation.

[Signatures on following page]

Dated: March 22, 2018
New York, New York


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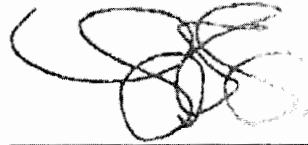
*Attorneys for Defendant The Attorney General
of the State Of New York*

SO ORDERED

Dated: March __, 2018

Hon. Richard M. Berman
United States District Judge

Dated: March 28, 2018
New York, New York



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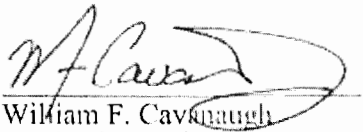
Dated: March __, 2018

Hon. Richard M. Berman
United States District Judge

Dated: March __, 2018
New York, New York

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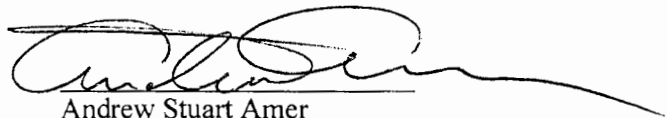
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SO ORDERED

Dated: March __, 2018

Hon. Richard M. Berman
United States District Judge



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SO ORDERED

April 12
Dated: ~~March~~, 2018

RM
B

Hon. Richard M. Berman
United States District Judge